

**MINUTES FOR THE COURT OF APPEAL  
STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT**

**March 04, 2003**

DIVISION ONE

B153730      Padgett, et al.                      (Not for Publication)  
                 v.  
                 Ernst & Young

The judgment of dismissal is affirmed.

Mallano, J.

We concur:    Spencer, P.J.  
                         Ortega, J.

B152245      Ralin                                      (Not for Publication)  
                 v.  
                 City of Santa Monica, et al.

The judgment is affirmed.

Mallano, J.

We concur:    Spencer, P.J.  
                         Mallano, J.

B154519      Spiegel & Yochelson              (Not for Publication)  
                 v.  
                 Brown

The judgment and the order denying Brown's motion to tax prejudgment interest are affirmed.

Mallano, J.

We concur:    Spencer, P.J.  
                         Ortega, J.

DIVISION TWO

B154069      Remington      (Not for Publication)

v.  
Spielberg, et al.

The judgment is affirmed. Respondents shall recover their costs of appeal from appellant.

Nott, J.

We concur:    Boren, P.J.  
Doi Todd, J.

B159428      Delson      (Not for Publication)

v.  
Lotts, et al.

The judgment is affirmed. Respondents shall recover their costs of appeal from appellant.

Nott, J.

We concur:    Boren, P.J.  
Doi Todd, J.

B149540      Sampson      (Not for Publication)

v.  
Alvarenga

The judgment is affirmed. Respondent(s) to recover costs.

Nott, J.

We concur:    Boren, P.J.  
Ashmann-Gerst, J.

## DIVISION TWO (Continued)

B153814 Associates Home Equity Services, Inc. (Not for Publication)  
v.  
Washington Mutual Bank

The judgment is affirmed. Respondent Washington Mutual shall receive costs on appeal.

Nott, Acting P.J.

We concur: Doi Todd, J.  
Ashmann-Gerst, J.

B159880 People (Not for Publication)  
v.  
Moreno

The judgment is affirmed.

Nott, Acting P.J.

We concur:   Doi Todd, J.  
                   Ashmann-Gerst, J.

B159848 People (Not for Publication)  
v.  
Mesa

The Court:

The judgment is affirmed.

Boren, P.J., Nott, J., Doi Todd, J.

## DIVISION TWO (Continued)

B155494 Douglas (Not for Publication)  
v.  
Bennett, et al.

The judgment is affirmed in part and reversed in part.

1. First cause of action for fraud against Bennett: The trial court's order granting Bennett's motion for summary judgment as to the FAC's first cause of action for fraud is reversed.

2. Second cause of action for constructive fraud against Bennett: The trial court's order sustaining Bennett's demurrer to the FAC's second cause of action for constructive fraud is reversed.

3. Fourth and sixth causes of action for constructive fraud against Bennett: The trial court's order sustaining Bennett's demurrer to the FAC's fourth and sixth causes of action for constructive fraud is affirmed.

4. Third and fifth causes of action for fraud and deceit against Bennett and Rodolico: The trial court's order sustaining the demurrer of Bennett and Rodolico to the FAC as to the third and fifth causes of action for fraud and deceit is affirmed.

5. Seventh cause of action for civil conspiracy to commit fraud and eighth cause of action for civil conspiracy to commit constructive fraud against Bennett and Rodolico: The trial court's order sustaining the demurrers of Bennett and Rodolico to the seventh cause of action for civil conspiracy to commit fraud and eighth cause of action for civil conspiracy to commit constructive fraud is reversed.

The parties shall bear their own costs on appeal.

Nott, J.

We concur:   Boren, P.J.  
                      Nott, J.

### DIVISION THREE

B146491 People (Not for Publication)  
v.  
Sand Phan, et al.

Defendant Hy's case is remanded for resentencing. In all other respects, the judgments are affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Kitching, J.

March 04, 2003 (Continued)

### DIVISION THREE (Continued)

B161591 People (Not for Publication)  
v.  
Landeros

The judgment (order revoking probation) is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

B159033 People (Not for Publication)  
v.  
Ortiz

The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Kitching, J.

B161528 People (Not for Publication)  
v.  
New

The judgment is affirmed.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

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The judgment is affirmed.

Klein, P.J.

We concur:   Croskey, J.  
                      Aldrich, J.

March 04, 2003 (Continued)

### DIVISION THREE (Continued)

B162748 People (Not for Publication)  
v.  
Paredes

The judgment is affirmed.

Klein, P.J.

We concur:   Kitching, J.  
                      Aldrich, J.

## DIVISION FOUR

B160126 Bidbay.Com, Inc., et al. (Not for Publication)  
v.  
Spry, Jr.

The order denying the motion to strike is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.  
Hastings, J.

B157423 People (Not for Publication)  
v.  
Echavarria

The order revoking and reinstating probation is affirmed.

Curry, J.

We concur: Vogel (C.S.), P.J.  
Epstein, J.

March 04, 2003 (Continued)

## DIVISION FOUR (Continued)

B156755 People (Not for Publication)  
v.  
Jones

For the foregoing reasons, the judgment is affirmed.

Curry, J.

We concur:   Vogel (C.S.), P.J.  
                      Hastings, J.

B149789 People (Not for Publication)  
v.  
Abdelwahab

The judgment is affirmed.

Curry, J.

We concur: Epstein, Acting P.J.  
Hastings, J.

DIVISION FIVE

Court convened at 9:00 a.m.

Present: Turner, P.J., Grignon, J., Mosk, J. and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B161479 People v. Marlon Towns  
B157501 People v. Ever Rivera

Argument waived, cause submitted.

DIVISION FIVE (Continued)

B157399     People  
              v.  
              Rolando Calderon

Merits:  
Argued by Jeralyn B. Keller for appellant and by David A. Wildman,  
Deputy Attorney General for respondent. Cause submitted.

B157004     Barbara Rockwell  
              v.  
              County of Los Angeles et al.

Appearances:  
Martin Stein for appellant and no appearance for respondent. Argument  
waived, cause submitted.

Court recessed: 9:30 am.

Court reconvened at 10:00 A.M.

Present: Turner, P.J., Grignon, J., Mosk, J. and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B158320 People v. Tyrone James  
B157096 People v. Alvaro S.  
B154246 People v. Arthur Roberson

Argument waived, cause submitted.

B156482     Margarita Lopez, et al.  
              v.  
              Clinica Popular Medical Group, et al.

Merits:  
Argued by Paul J. Cohen for appellants and Mark P. Geffon for  
respondents. Cause submitted.



DIVISION FIVE (Continued)

B155940     Thomas A. Ayala  
               v.  
               Wendy Hatch Osterholt

Merits:  
Argued by Kenneth R. Nahigian for appellant and by Jacqueline D. DeWarr  
for respondent. Cause submitted.

B156883     People  
               v.  
               Cornelius Sean Burford

Merits:  
Argued by Matthew D. Alger for appellant and by Stephanie C. Brennan,  
Deputy Attorney General for respondent. Cause submitted.

Court recessed 10:56 a.m.

Court reconvened at 11:05 a.m.

Present: Grignon, Acting P.J., Armstrong, J., Mosk, J. and Zaida G. Heraldez, Deputy  
Clerk.

Each of the following:

B158327 People v. Richard Solis  
B159875 People v. Dennis Rogers  
B157867 People v. Adams Hicks & Rufus Hicks  
B152866 People v. Arthur Torres

Argument waived, cause submitted.

B155218     Asencion Cervantes, et al.  
               v.  
               City of Los Angeles, et al.

Merits:  
Argued by Jeffrey E. Zinder for appellant and by Katherine J. Hamilton,  
Deputy City Attorney for respondents. Cause submitted.

Court recessed at 11:32 a.m.

March 04, 2003 (Continued)

DIVISION FIVE (Continued)

Court reconvened at 1:00 p.m.

Present: Grignon, Acting P.J., Armstrong, J., Mosk, J. and Zaida G. Heraldez, Deputy Clerk.

B158202      Quintana v. Quijosa

Argument waived, cause submitted.

B157531      Concerned Residents  
v.  
Board of Trustees

Merits:

Argued by Lisabeth Deborah Rothman for appellant and by Kevin H. Brogan and Douglas W. Beck for respondent. Cause submitted.

B154863      Shon Shafer  
v.  
County of Los Angeles Sheriffs Dept.

Merits:

Argued by Michael Alan Morguess for appellant and by Jeffrey M. Hausman for respondent. Cause submitted.

B156860      Mario Breceda  
v.  
County of Los Angeles

Merits:

Argued by Robert A. Brown for appellant and by Daniel Barer for respondent. Cause submitted.

Court adjourned.

## DIVISION SIX

B152965 People (Certified for Publication)  
v.  
Fernandez

The conviction of dissuading a witness under section 136.1, subdivision (b)(1) (count four) is reversed. The sentence is vacated and the matter is remanded for resentencing. In all other respects, the judgment is affirmed.

Coffee, J.

We concur:    Gilbert, P.J.  
                         Yegan, J.

B156984 People (Not for Publication)  
v.  
Cisneros

The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

B157131      Shane Kistler      (Not for Publication)  
v.  
Tanya Reichek

The orders are affirmed. Respondent is entitled to costs on appeal.

Gilbert, P.J.

We concur: Coffee, J.  
Perren, J.

March 04, 2003 (Continued)

## DIVISION SIX (Continued)

B158535      Gray  
v.  
First American Title Ins. Co.

Filed order denying petition for rehearing.

## DIVISION SEVEN

B156895 People (Not for Publication)  
v.  
Kramer

The judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Johnson, J.

B156050 People v. Mayshack (Not for Publication)

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The case is remanded to the trial court with directions to strike, rather than stay, the one-year enhancement imposed under section 667.5, subdivision (b) for first degree burglary and to send the Department of Corrections a corrected abstract of judgment. In all other respects, the judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Munoz, J. (Assigned)

March 04, 2003 (Continued)

## DIVISION SEVEN (Continued)

B156419 People (Not for Publication)  
v.  
Pleitez

The judgment is reversed and remanded to the trial court with instructions to (1) vacate the true finding on section 12022.53, subdivision (d) enhancement on count 2 (Vasquez's attempted murder), (2) modify the sentence to reflect imposition of the previously stayed section 12022.53, subdivision (c) enhancement of 20 years (instead of the 25 year to life additional term under section 12022.53, subdivision (d) but incorrectly identified as subdivision (b)) pursuant to section 12022.53, subdivision (f) and (3) forward a modified abstract of judgment to the Department of Corrections reflecting this change. In all other respects, the judgment is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Johnson, J.

B152868 People (Not for Publication)  
v.  
Davione T.

The disposition order of July 13, 2001 is amended: (1) to reflect that appellant is not to associate with anyone disapproved of by his legal guardian or the probation officer.; and (2) to fix a maximum theoretical period of confinement of seven years, which reflects the deduction of the one-year term of the deadly weapon use enhancement. As modified the order is affirmed.

Woods, J.

We concur: Perluss, P.J.  
Johnson, J.

## DIVISION SEVEN (Continued)

B151220 Okun, et al. (Not for Publication)

V.

La Societe de la Musique, et al.

The order is affirmed in part, reversed in part and remanded for further proceedings commensurate with the views expressed in this opinion. Each party to bear their own costs on appeal.

Woods, J.

We concur: Perluss, P.J.  
Johnson, J.

B156195 Plotkin (Certified for Publication)

V.

Sajahtera, Inc.

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur: Perluss, P.J.  
Johnson, J.

B158941      Rowe      (Not for Publication)

V.

Toveg, et al.

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur: Perluss, P.J.  
Johnson, J.

DIVISION SEVEN (Continued)

B152523      Sanai, et al.                      (Not for Publication)  
                 v.  
                 Sanai

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur:    Perluss, P.J.  
                         Johnson, J.

B152970      Tonsich                                      (Not for Publication)  
                 v.  
                 Folmar

The judgment is reversed and the matter remanded to the trial court for further proceedings consistent with this opinion. Appellant is to recover costs on appeal.

Woods, J.

We concur:    Perluss, P.J.  
                         Johnson, J.

DIVISION EIGHT

B158073      Eichenbaum                              (Certified for Publication)  
                 v.  
                 Alon, as Trustee, etc.,  
                 Shabel, et al.

The order imposing sanctions is affirmed. The parties shall bear their own costs.

Cooper, P.J.

We concur:    Rubin, J.  
                         Boland, J.

March 04, 2003 (Continued)

DIVISION EIGHT (Continued)

B157716      Los Angeles County, D.C.S.      (Not for Publication)  
v.  
Gloria T.

The trial court's orders terminating reunification services for Mother, placing Tamaria in long-term foster care, and placing Tremayne and Trinity in Father's custody are affirmed.

Cooper, P.J.

We concur:    Rubin, J.  
                     Boland, J.